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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

REC'D 08 JUN 2004

Applicant's or agent's file reference P 02 039 WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/DK 02/00156	International filing date (day/month/year) 08.03.2002	Priority date (day/month/year) 08.03.2002
International Patent Classification (IPC) or both national classification and IPC B65D33/00		
Applicant DANDY AS et al.		

1. This International preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 2 sheets.

3. This report contains indications relating to the following items:

I ☒ Basis of the opinion

II ☐ Priority

III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability



IV ☒ Lack of unity of invention

V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

VI ☐ Certain documents cited

VII ☐ Certain defects in the international application

VIII ☐ Certain observations on the international application

Date of submission of the demand 22.09.2003	Date of completion of this report 07.06.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Cazacu, C Telephone No. +49 89 2399-2645 <div style="text-align: right;">  </div>

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/DK 02/00156

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-35 as originally filed

Claims, Numbers

1-26, 33, 34 as originally filed

27-32 filed with telefax on 17.05.2004

Drawings, Sheets

1/5-5/5 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/DK 02/00156**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees, the applicant has:

- ☒ restricted the claims.
☐ paid additional fees.
☐ paid additional fees under protest.
☐ neither restricted nor paid additional fees.

2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

- ☐ complied with.
☐ not complied with for the following reasons:

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☐ all parts.
☒ the parts relating to claims Nos. 27-32 .

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	27-32
Inventive step (IS)	Yes: Claims	
	No: Claims	27-32
Industrial applicability (IA)	Yes: Claims	27-32
	No: Claims	

2. Citations and explanations

see separate sheet

V.

1. The present application does not meet the requirements of Article 33(2) PCT, because the subject-matter of claim 27 is not new.

Document D2, which is considered to represent the most relevant state of the art, discloses (cf. appended abstract; Fig 1, bottom drawing) a confectionery packaging having all the features of claim 1 (see in particular the fact that the edges of the package are adhered such as to easily be peeled off; a first pocket is formed at the bottom part of the open package - see Fig. 1, bottom drawing; the two sections forming a further releasable sealing are sections 6).

The features of claim 27 are also disclosed by documents US-A-4 402 403 (see in particular col. 2, lines 33-52; Fig. 1), US-A-3 380 576 (D5) (see in particular col. 2, lines 1-47; adhesive tab 29), US-A-4 505 385 (D6) (flap 43 in Fig. 2) and GB-A-921 980 (D7) (see breakable sealings 9 and further releasable sealing 7, 8 in Figs. 3, 6) which were not cited in the international search report. Copies of the documents are appended hereto.

2. The subject-matter of claims 28-32 is either not new or not inventive, appearing to relate to minor contructional features which, insofar as not directly disclosed in the prior art (such as the peel-off feature of D2 relevant for claim 28), are considered to relate to obvious modifications thereof. Such features will be selected and used by the man skilled in the art as and when he needs them, without any inventive thought being required.

Amended claims

27. Confectionery packaging (40) comprising at least one pocket (403; 9) for receipt of confectionery,

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said at least one pocket comprising at least one breakable sealing (405)

said packaging (40) comprising at least two sections (401, 402)

said at least two sections (401, 402) forming a part of a further releasable sealing of

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said at least one pocket.

28. Confectionery packaging (40) according to claim 27, wherein

said further releasable sealing (41, 42) comprising at least one releasable adhesive (404).

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adapted for fastening the at least two sections (41, 42) in a folded position around said at least one pocket (403) in at least one closed position.

29. Confectionery packaging (40) according to claims 27 or 28, wherein

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said at least one pocket (403) being formed, preferably folded, by at least one first pocket section (4030) and at least one second pocket section (4031).

30. Confectionery packaging (40) according to any of the claims 27 or 29, wherein

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the at least one pocket (403) extending from an end of the packaging in its unfolded position towards the other end, and where said pocket comprising at least one opening (4032) is formed by the said by at least one first pocket section 4030, and where said at least one opening (4032) is mechanically stiffened by extending said at least one first pocket section (4030) beyond at least one folding line (4040) formed

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by said at least one first pocket section 4030, said at least one second pocket section (4031) and one of said at least two sections (41, 42).

31. Confectionery packaging (40) according to any of the claims 27 or 30, wherein

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2

said packaging comprising at least one surface (401, 402, 403) adapted for advertisement and where said at least one surface at least one of said sections (401, 402 is visually covered by at least one section of the packaging when the packaging
5 is in its at least one folded position, and where said

said at least one surface is visible when the packaging is in at least one unfolded position.

- 10 32. Confectionery packaging (40) according to any of the claims 27 or 31, wherein said package comprising a polymer.

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